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1 that Belmac had acknowledged, you know, as was
 2 important for it to do, that this was Ethypharm
 3 technology, Ethypharm know-how, Ethypharm
 4 processes and Ethypharm equipment, but also
 5 understood that Belmac was permitted, in addition
 6 to servicing Ethypharm's customers -- which I
 7 thought were going to be preferentially
 8 serviced -- to service its own customers, so that
 9 would have been consistent with my understanding.
 10 You know, obviously the provision is consistent
 11 with my understanding.

12 Q A moment ago you indicated that Belmac
 13 had acknowledge it was Ethypharm's know-how and
 14 knowledge and such.

15 A Right.

16 Q Did you ever see a written contract to
 17 that effect? And by that I mean a signed written
 18 contract, as opposed to a draft contract.

19 A I -- I recall that in response to a
 20 letter that Mr. DeBregeas sent to Mr. Murphy in
 21 -- in, I believe, about 1999, that Mr. Murphy

1 its own patents, but at that time in France,
 2 there was never a dispute about the fact that
 3 this was Ethypharm technology.
 4 I mean -- now, is there a specific division that
 5 I could point to? No. And I don't know whether
 6 there was a contract signed to that effect.

7 Q Okay. The following question is a
 8 yes-or-no question.

9 A You do that to me when I talk on too
 10 long; I understand.

11 Q No, I'm just trying not to invade on
 12 privilege issues.

13 A That's okay; if I talk too much, just
 14 shut me down.

15 Q No, I encourage witnesses to testify.
 16 Did you -- have you ever provided any legal
 17 advice to Ethypharm France concerning whether or
 18 not to close Ethypharm Spain?

19 A No.

20 MR. MINGOLLA: May I have this marked
 21 as Exhibit 4, please?

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1 acknowledged, you know, the fact that -- you
 2 know, that certainly the technologies and the
 3 know-how and the other intellectual assets were
 4 Ethypharm's.
 5 And that was a letter that -- you know, I have
 6 got to go back and think about it a little bit,
 7 but that was a letter that was written because in
 8 the course of these discussions that Ethypharm
 9 was having with the major companies that it was
 10 trying to exploit its intellectual property with,
 11 one of the things they had to be very much aware
 12 of was, you know, the fact that their property
 13 was their property, and they couldn't permit
 14 someone to be claiming their assets if in fact
 15 they weren't their assets. And if I recall --
 16 and I think I'm correct on this -- the letter
 17 that we sent to Murphy was responded to with --
 18 with an absolute acceptance of that premise. And
 19 that's always been my understanding, that there
 20 was never a dispute -- you know, I know there is
 21 a dispute now. Because Belmac had filed some of

1 (Meyer Deposition Exhibit No. 4 marked
 2 for identification.)

3 BY MR. MINGOLLA:

4 Q You have been handed what's been marked
 5 as Exhibit 4, and if you just -- I'm not going to
 6 ask you to study the document, if you would just
 7 skim it, and while you're doing so, let me
 8 identify it for the record.
 9 What's been marked as Exhibit 4 is a multi-page
 10 document bearing production numbers EP 002009
 11 through 2041.

12 A Those are your Bates stamp numbers?

13 Q Yes. And my first question to you
 14 which you ought to have in mind while you're
 15 skimming the document is whether you recognize
 16 this document.

17 A I don't recognize it, but I was aware
 18 that -- that there were discussions about
 19 finalizing, if you will, an agreement between the
 20 parties in this time frame.

21 Q And this time frame being June of 2001?

14 (Pages 50 to 53)

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1 A Yeah, roughly.
 2 I mean, you know, I mean, I think that -- you
 3 know, as I said before, you know, I was always
 4 aware of the tensions between them, and I think
 5 that maybe there hadn't been an omnibus
 6 agreement, which I would call this, and I'm
 7 certain that I was aware of what was going on
 8 here, because this would have been something that
 9 Roseline Joannesse, you know, was very much
 10 involved in, and she would -- you know, she
 11 really functioned; I mean, she's a very competent
 12 woman; she really functioned as, you know, sort
 13 of in-house general counsel of sorts, and she
 14 would have from time to time asked me about
 15 things like this, but I wouldn't have
 16 participated in the drafting of it. She might
 17 say what I did think about something, but this
 18 would be something that she would have prepared,
 19 and she worked really quite closely with
 20 Mr. Leduc, so when I look at this and I see who
 21 is on the cc list, I suspect that this was a

1 that would have prevented Ms. Joannesse from
 2 adding Bentley Pharmaceuticals as a signatory to
 3 this contract?
 4 A Am I aware of any legal impediment?
 5 No, I'm not.
 6 Q The issues you described a few moments
 7 ago, which you called -- which I believe you
 8 described as drug manufacturing issues that
 9 Ethypharm had with Belmac, were those based in
 10 Spain, the timely delivery issue? I mean, were
 11 those issues that arose in Spain?
 12 A Well, I think that the reason why they
 13 were addressed to both Belmac and Bentley was,
 14 sure, the physical activities were taking place
 15 in Spain, but, know, as I have always understood
 16 the situation, the direction was coming from New
 17 Hampshire. I realize Murphy had, you know, two
 18 hats, he had that managing director hat that you
 19 pointed out earlier and he had the CEO of Bentley
 20 hat.
 21 But everything I ever saw about this always

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1 Roseline-generated document sent to Murphy by
 2 Gerard. And I wouldn't have been copied, but I
 3 was aware, particularly in the fact that I have
 4 probably looked at this sort of thing before that
 5 meeting in February, 2002.

6 Q But just to be clear, you don't recall
 7 seeing this specific draft contract that begins
 8 on page EP 002012 and the following pages.

9 A No. No, I don't. I mean, as I sit
 10 here today, I do not.

11 Q Okay. And if you turn to page 26 of
 12 the draft agreement, which bears production
 13 number EP 002037 --

14 A Right.

15 Q -- do you see that the signature blocks
 16 on the draft agreement are for Ethypharm, S.A.,
 17 to be signed by Mr. Patrice DeBregeas, on the one
 18 hand, and then Belmac, S.A., to be signed by
 19 Mr. James Murphy as executive director?

20 A I see that.

21 Q Are you aware of any legal impediment

1 related -- and principally what I saw about it,
 2 particularly in the later years, I would check
 3 releases of Bentley from the New York Stock
 4 Exchange, and I would see that, you know, Bentley
 5 was really talking about what was happening at
 6 Belmac. And so although the physical activities
 7 were taking place in Spain, it was really a
 8 Bentley-driven operation. That's always been my
 9 understanding, I mean, and that's my
 10 understanding as I sit here today.

11 Q The -- the reference you just made to
 12 your perception of direction coming from New
 13 Hampshire --

14 A Yes.

15 Q -- and you just mentioned statements
 16 made to the New York Stock Exchange, is there any
 17 other basis for your belief that directions as to
 18 activities in Spain were in fact coming from New
 19 Hampshire, in addition to the letter you
 20 referenced a few moments ago?

21 A Well, the letter of '97 was certainly,

15 (Pages 54 to 57)

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1 I think, my first -- that was my first awareness,
 2 if you will, that Bentley had taken over Belmac,
 3 but I recall -- and I may be wrong on this,
 4 because these recollections are -- you know, are
 5 not as vivid as they were at the time, but I
 6 recall in preparation for the meeting we had in
 7 February of 2002, that I looked through the press
 8 releases that Bentley had been -- been issuing
 9 about Belmac.
 10 I think I was aware that the board was
 11 controlled -- the Belmac board was controlled by
 12 Bentley, that possibly I was aware -- I thought
 13 maybe he was CEO of both, but he was obviously he
 14 was the managing director of Belmac and he was
 15 the CEO of Bentley. And so I just had the
 16 impression that we were dealing with sort of the
 17 classic situation where the parent subsidiary and
 18 the parent is really controlling the subsidiary
 19 fairly closely.
 20 This wasn't a situation where you had a different
 21 general manager and you had a different board in

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1 Spain. And I'm only giving you the best of my
 2 recollection. My recollection was that there
 3 really was one operation; it was Bentley guys on
 4 the Belmac board, and sure, you had Adolfo
 5 Herrera there, and he was the guy who came to the
 6 meeting with a board of directors member in
 7 February, but the fact is that I really sort of
 8 saw them as a combined -- a combined entity.
 9 Q You just mentioned Mr. Herrera's name.
 10 Do you know what position or positions he had at
 11 Laboratorios Belmac as of 2002?
 12 A I assume that if he wasn't the general
 13 manager, he was close. He was close.
 14 Q And do you know what position or
 15 positions Mr. Herrera had in Bentley
 16 Pharmaceuticals?
 17 A Don't know.
 18 Q Do you know if he had any?
 19 A Do not know. Do not know.
 20 Q Are you aware that as of 2002, Bentley
 21 was a publicly-traded company?

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1 A I thought they were, yes.
 2 Q And as a publicly-traded company, they
 3 have reporting obligations to the SEC?
 4 A Sure do.
 5 Q And are you aware of any requirement
 6 that the results of wholly-owned subsidiaries be
 7 consolidated when they make statements to the
 8 SEC?
 9 A I suspect that a wholly-owned
 10 subsidiary, meaning 80 percent or better
 11 ownership, would have had to be consolidated.
 12 Q And if Bentley owned one hundred
 13 percent of the shares of Laboratorios Belmac, it
 14 would be subject to those requirements?
 15 A There would be no question, but they
 16 also would be subject to the requirement that
 17 they report truthfully about their activities.
 18 Q And do you have any -- do you have any
 19 understanding that Bentley did not truthfully
 20 report its activities?
 21 A Yes. Yes.

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1 Q Can you please tell me what your
 2 understanding is in that regard?
 3 A I think it's pretty clear that what
 4 Bentley has been saying about its technology and
 5 its activities, meaning its activities as carried
 6 out by its Belmac subsidiary, were clearly a
 7 misrepresentation of the situation, that the
 8 activities of Belmac were really, you know, more
 9 like contract manufacturers working for
 10 Ethypharm, and the technology, the underlying
 11 technology, not only the patents, but the
 12 processes and certainly the equipment, belonged
 13 to Ethypharm.
 14 It was a situation where, if Ethypharm and Belmac
 15 operated this way for five years, and at the end
 16 of the fifth year the relationship terminated,
 17 Belmac was now an empty plant with no technology.
 18 But what happened instead of that was, over the
 19 period of time, certainly from '97, '98, '99, the
 20 people at Belmac, under the direction of the
 21 people at Bentley, proceeded to file their own

16 (Pages 58 to 61)

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1 patent applications for omeprazole and
 2 lanzoprazole using underlying Ethypharm
 3 technology, use the processes and the know-how,
 4 particularly -- because these glads that are used
 5 for production, it really all comes down to
 6 know-how -- used the know-how that they learned
 7 from Ethypharm to basically create their own
 8 production, their own patent base, their own
 9 processes, and, by the way continued to use the
 10 Ethypharm equipment in manufacturing for
 11 themselves.
 12 So that when the contract was cancelled, as it
 13 had a right to be, instead of there being,
 14 really, the end of the contract manufacturing, as
 15 you would expect, Belmac had, quite frankly, very
 16 cleverly, gone out and created the basis for them
 17 to continue to operate and to continue to go
 18 forward with now technology which I say was, in
 19 my judgment, was completely derived from the
 20 underlying Ethypharm technology.
 21 And that's -- you know, and I don't think -- I

1 patents. I have looked at the testimony --
 2 that's independent. I have looked at --
 3 Q Which patents are you referring to?
 4 Are you talking Belmac's?
 5 A The Astra patents.
 6 Q Are you talking about -- are you
 7 referencing the patents that Belmac has applied
 8 for?
 9 A Can I --
 10 Q You can; I just wanted to make sure
 11 before you went off --
 12 A Let me clarify my answer.
 13 Q Sure. Please do.
 14 A In the course of the negotiations I had
 15 for Ethypharm, I have looked carefully at the
 16 underlying Astra patents. Some of these are only
 17 in Swedish. I have looked very carefully at the
 18 Ethypharm patents. I have looked very carefully
 19 at the arguments Astra has made everywhere they
 20 have sought to enforce those patents, in a
 21 Bic-Goulding proceeding, in an proceeding brought

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1 don't think there's been one mention anywhere,
 2 anywhere -- I mean, maybe there's been a mention
 3 of a lawsuit in passing by Bentley, but I don't
 4 -- you know, and I don't read this stuff as
 5 carefully as I would if I were the SEC lawyer for
 6 Bentley, but the fact is, I don't see any real
 7 acknowledgement by Bentley that what they're
 8 doing here is really subject to this lawsuit, but
 9 also subject to challenge.
 10 I mean, look, my background -- you know, I don't
 11 want to get on the soap box, but my background is
 12 Justice Department and FTC and false advertising,
 13 have done a lot of securities advice. I'm kind
 14 of a stickler for detail, and I just don't see it
 15 here, and that's what I base my comments on.
 16 Q Have you done any independent
 17 investigation as to the underlying technology
 18 that Belmac claims that it has developed? And
 19 I'm talking about you, personally.
 20 A Well, what I have done is -- remember,
 21 I have looked at all the underlying omeprazole

1 against Takata, both U.K. proceedings.
 2 Q What time frame are we dealing with
 3 here?
 4 A This would be in the '99-2000 time
 5 frame.
 6 Q Okay.
 7 A And it became clear to me that any
 8 improvement patents, any improvement patents
 9 other than possibly miniscule drug development
 10 patents, were clearly going to be almost
 11 impossible, impossible to come up with. And, you
 12 know, the fact of the matter is that, you know,
 13 there are obviously lots of documents in the
 14 patent law that, you know, permit people to
 15 improve patents and file improvements.
 16 I thought that it was going to be almost
 17 impossible to improve upon all the drug delivery
 18 and underlying compound patents with respect to
 19 omeprazole. And lanzoprazole as well.
 20 And so therefore, when I say that it's
 21 inconceivable to me that a small operation like

17 (Pages 62 to 65)

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1 Belmac could have come up with omeprazole
2 patents -- which I have been told, you know,
3 pattern the Ethypharm patents -- it's just
4 impossible for me to believe that Belmac did not
5 either develop their patents from the Ethypharm
6 patents, simply copied those patents or made
7 non-material modifications in the filings in
8 order to achieve those patents.
9 Did -- have I ever seen the Belmac patents? No,
10 I have never seen the Belmac patents.

11 Q So when you say you have been told, you
12 have been told by whom?

13 A Roseline Joannes at the time, in
14 2001, 2002 for sure, and she had been talking
15 with their patent lawyers; Mr. Leduc for sure,
16 who is a -- you know, he doesn't practice patent
17 law anymore, but was a patent lawyer by training,
18 and obviously Mr. DeBregeas.

19 Q But just so the record is clear, you
20 have not personally looked at the patents and
21 patent applications by Belmac?

1 technology, know-how and patents, and I would
2 like to know the basis for your statement that it
3 was under the direction of Bentley that Belmac
4 did that.

5 A Well, if -- you know, if the board is
6 controlled by Bentley, and if Murphy, starting in
7 '97, says he's taking control of Belmac and, you
8 know, our discussions deal with Bentley's
9 announcements, that's -- you know, I mean, it
10 just seems to be sort of a common-sense result.
11 I mean, if Bentley does in fact control the board
12 and if Murphy is saying in '97 that he's taken
13 control, then I assume that Bentley is directing
14 their activities.

15 Now, I don't know -- is there a memo from Bentley
16 to Belmac saying "Go do this"? I --

17 Q Have you ever seen such a memo?

18 A No, I hadn't.

19 Q Have you ever heard of such a verbal
20 instruction to that effect ever being given by
21 anybody at Bentley to anyone at Belmac?

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1 A I have not personally, and I suspect
2 they're in Spanish, so they wouldn't help me a
3 lot.

4 Q Me, too.
5 And with respect to the know-how that Belmac
6 claims to have developed on its own, have you
7 done any independent investigation yourself as to
8 what that know-how encompasses?

9 A No.

10 MR. FINE: Objection. We're way out of
11 phase one here.

12 MR. MINGOLLA: I'm asking simply a
13 yes-or-no question.

14 A No.

15 BY MR. MINGOLLA:

16 Q You mentioned a couple of answers ago
17 your understanding that the technology, know-how
18 and patents belonged to Ethypharm.

19 A Yes.

20 Q You also mentioned that under the
21 direction of Bentley, Belmac basically took that

1 A I assume the results are the only thing
2 we can look to.

3 Q So is that a no?

4 A Yes.

5 Q That is correct?

6 A Yes.

7 Q Thank you.

8 Have you ever represented both a parent and a
9 wholly-owned subsidiary of a parent?

10 A Sure. Sure.

11 Q And have you ever represented a parent
12 and a wholly-owned subsidiary of a parent where
13 there have been overlapping members of the board
14 of directors?

15 A Yes.

16 Q Have you ever represented both a parent
17 and a subsidiary where there have been
18 overlapping officers?

19 A Yes.

20 Q Is that unusual, in your experience?

21 A That is not unusual. What is unusual

18 (Pages 66 to 69)

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1 is to have a board that is not, at least on
2 paper, independent. You know, most subsidiaries
3 and even most wholly-owned subsidiaries have a
4 board that, particularly in today's
5 Sarbanes-Oxley world, where the board is capable
6 of at least showing titular independence by
7 having a board that technically is not aligned
8 with the parent.

9 Q And --

10 A And that may be the case at Bentley; I
11 mean...

12 Q Sitting here today, do you have any
13 reason to believe that the board of directors of
14 Bentley Pharmaceuticals is not independent?

15 A Bentley?

16 Q Um-hmm.

17 A No.

18 Q Are you -- have you ever studied the
19 requirements of the Spanish corporate law
20 pertaining to the composition of a board of
21 directors of a Spanish company?

1 you're doing so, let me identify it for the
2 record.

3 Exhibit 6 is a two-page document bearing
4 production numbers BENTL 008366 and 8365.

5 A I see that.

6 Q And while you're at it, why don't you
7 look at Exhibit 7, which, for the record, bears
8 production number EP 002928.

9 A Okay.

10 Q Do you recognize Exhibit 6?

11 A I do.

12 Q And what is it?

13 A A notice of termination under an
14 existing contract from Belmac to Ethypharm.

15 Q And who signed Exhibit 6?

16 A Adolfo Herrera.

17 Q Do you recall when you first saw
18 Exhibit 6?

19 A Sometime after, obviously, November
20 14th, but probably closer to February of 2002.

21 Q And with respect to Exhibit 7, have you

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1 A No, I haven't.

2 Q I would like to just go through one
3 more document and then take a break, if that's
4 okay.

5 A Okay, sure.

6 Are we off the record?

7 MR. MINGOLLA: Why don't we take a
8 break now.

9 THE VIDEOGRAPHER: The time is
10 10:38:04. Off the record.
11 (Brief recess.)

12 (Meyer Deposition Exhibit No. 6 marked
13 for identification.)

14 (Meyer Deposition Exhibit No. 7 marked
15 for identification.)

16 THE VIDEOGRAPHER: On the record. The
17 time is 10:49:37.

18 BY MR. MINGOLLA:

19 Q Mr. Meyer, welcome back. If you could
20 take what has been marked as Exhibit 6 and just
21 review that for just a moment, please. And while

1 seen that document before?

2 A This -- this document, I don't recall
3 seeing. But obviously, you know, they were part
4 and parcel of the same notice.

5 Q Do you recall when you first learned
6 that the contract that had been entered into
7 between Belmac and Ethypharm Spain had been
8 terminated by Belmac?

9 A I -- as I said, sometime after November
10 14th, obviously, but probably -- probably, you
11 know, in the December time frame, January time
12 frame, because I think there was a question of
13 getting your schedules, because obviously we
14 wanted to talk about this. This was of concern
15 to us, and particularly at this particular time
16 frame, and so a meeting was set up, which is
17 referenced in the complaint as the meeting which
18 you all sort of briefly referred to. So let's
19 just say sometime before January.

20 Q Okay. Did you have any discussions
21 with anyone at Ethypharm about the termination of

19 (Pages 70 to 73)

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1 the contract --
 2 MR. FINE: Objection.
 3 MR. MINGOLLA: -- prior to February of
 4 '02?
 5 MR. FINE: Objection. So your answers
 6 are not privileged.
 7 A Yes.
 8 Q Did you have any conversations with
 9 anyone at Belmac concerning the termination of
 10 the contract prior to February of 2002?
 11 A No.
 12 Q Did you have any conversations with
 13 anyone at Bentley Pharmaceuticals about the
 14 termination of the contracts?
 15 A No.
 16 We don't have an Exhibit 5. Did we go to six and
 17 seven intentionally?
 18 MR. MINGOLLA: I think you may be
 19 right. Let's go off the record for a second,
 20 please.
 21 THE VIDEOGRAPHER: The time is

1 you give me a complete list?
 2 A Adolfo Herrera.
 3 Q And who is he?
 4 A General manager type, director of
 5 operations, a fellow at Belmac.
 6 Q Okay.
 7 A Someone who -- you know, a Z-named
 8 fellow, you know, an older man, tall, older man,
 9 virtually said nothing in the meeting, but sort
 10 of distinguished older man, quite tall, named
 11 Zingana or something like that.
 12 Q If I suggest to you the name Fernando
 13 Berenguer, is that --
 14 A That's not it.
 15 Q Why don't we look at the complaint, and
 16 specifically, paragraph -- I think it's 101.
 17 A It's Zuniga.
 18 Q So Mr. Berenguer Zuniga, Z-U-N-I-G-A?
 19 A Yes.
 20 Q And Berenguer is B-E-R-E-N-G-U-E-R? Is
 21 that the individual you were referring to?

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1 10:53:03. Off the record.
 2 (Discussion off the record.)
 3 THE VIDEOGRAPHER: On the record. The
 4 time is 10:53:28.
 5 MR. MINGOLLA: For the record, the
 6 parties have conferred and agreed that there is
 7 no Exhibit 5 to the deposition of Mr. Meyer, and
 8 rather than attempt to go back and re-pose
 9 questions, we will just omit that number
 10 entirely, and if there are any future exhibits,
 11 we will start with the next number, which will be
 12 Exhibit 8.
 13 MR. FINE: That's correct.
 14 MR. MINGOLLA: Thank you.
 15 Q Let's now talk about this meeting in
 16 February of 2002, okay?
 17 A Okay.
 18 Q I trust you remember a meeting in or
 19 around that time frame?
 20 A Yes.
 21 Q And who attended that meeting? Could

1 A That's right, but it was always a Z
 2 name to me, okay? So we have Herrera and the
 3 member of the board I described, Zuniga.
 4 Q And he was there on behalf of who?
 5 A Belmac. He was on the board -- as I
 6 understood him, he was on the board of Belmac.
 7 That's at least what was my recollection.
 8 Q Okay.
 9 A And you had Mr. Leduc, Mr. DeBregeas,
 10 both of whom came and went in that meeting;
 11 Roseann -- Roseline Joannesse, and myself.
 12 Q Anyone else that you can remember?
 13 A No. And I actually thought Mr. Murphy
 14 was going to be there, but he wasn't, and there
 15 was nobody from Bentley, and I don't think there
 16 was anybody else from Ethypharm.
 17 Q Did you request that Mr. Murphy attend?
 18 A No, I was told by -- I was told by, I
 19 think, Roseline that we thought Mr. Murphy might
 20 be attending. I never saw an attendance sheet; I
 21 just --

20 (Pages 74 to 77)

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1 MR. FINE: I'm going to object to the
 2 extent that that's getting into Roseline's
 3 impressions, but...
 4 Q How much advance notice of the meeting
 5 did you receive, if any?
 6 A I think that -- you know, obviously,
 7 you know, I'm in Paris on occasion. I don't
 8 think I was there just because -- because I
 9 happened to be in Paris. I think I probably had
 10 some notice. I don't honestly recall how much.
 11 This was in February, and so it would have
 12 clearly been some notice.
 13 Q Just so I'm clear, do you mean that you
 14 went to Paris for this meeting or you happened to
 15 be in Paris, and while there, sat in on this
 16 meeting?
 17 A I recall going to Paris for a couple of
 18 things, but one of which was this meeting.
 19 Q Okay. And when you say for a couple
 20 things, were they a couple of things all
 21 pertaining to Ethypharm?

1 or not it was at our request, you know, and
 2 obviously we wanted the meeting as well as they
 3 did.
 4 Q You had not seen Exhibit 6 in or around
 5 November of 2001; is that right?
 6 A I had not seen that until after it was
 7 sent, and I probably saw it only when I got to
 8 Paris.
 9 Q And the letter is in Spanish, of
 10 course.
 11 A Yes. Yes.
 12 Q And sitting here today, you don't
 13 specifically remember whether it was Belmac who
 14 specifically asked for this February, 2002
 15 meeting, or someone at Ethypharm?
 16 A I had thought that it was our meeting,
 17 but, you know, having just looked at the
 18 document, all I can say is I can't -- you know, I
 19 can't speak specifically to that.
 20 Q What was your understanding of the
 21 purpose of the meeting?

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1 A Yes. Yes.
 2 Q Did you request that the meeting take
 3 place?
 4 A I think the meeting -- I think it was
 5 important that we have the meeting, based on the
 6 sort of tactical and strategic advice I was
 7 giving Ethypharm, but certainly I think it was
 8 Mr. DeBregeas and Leduc wanted the meeting as
 9 well.
 10 Q Do you know whether someone at
 11 Ethypharm proposed the meeting in the first
 12 instance or someone from Belmac or someone from
 13 Bentley?
 14 A Well, in the exhibit -- and that would
 15 be Exhibit 6 -- you will see that that last
 16 parenthetical is that, you know, "We would like
 17 to work with you on a new contract which will
 18 meet your needs," et cetera.
 19 So, you know, quite frankly, I just noticed that
 20 when I looked at it a minute ago. I don't know
 21 whether or not that led to the meeting or whether

1 A I think the purpose of the meeting was
 2 twofold. Number one, we had become increasingly
 3 concerned about what Bentley was saying and not
 4 saying about the relationship.
 5 We were now very concerned that -- that this
 6 termination suggested that Belmac had
 7 successfully, if you will, misappropriated our
 8 technology, know-how, processes and use of
 9 equipment, that they had really gotten to a point
 10 where they now might, you know, as a
 11 going-out-the-door favor for us, still be a
 12 contract manufacturer, but that essentially, you
 13 know, they had now done all that they needed to
 14 be independent in the marketplace, even though
 15 what they had done had come from Ethypharm.
 16 And that -- and that was something of real
 17 agitation for Mr. Leduc and Mr. DeBregeas.
 18 And so that the meeting and the reason that they
 19 had me there was, quite frankly, we began at that
 20 point -- I mean, it may seem like it's taking
 21 forever, but we began at that point to seriously

21 (Pages 78 to 81)

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1 consider the fact that we were going to have to
2 bring this lawsuit and that we were going to have
3 to bring a lawsuit to rectify this
4 misappropriation of property. And we also were
5 looking very seriously at what else we might have
6 to do, you know, relative to the Bentley
7 situation here in the States.

8 Q You indicated a moment ago that the
9 purpose of the meeting was twofold. The first
10 was, you were concerned about what Bentley was
11 saying and not saying.

12 A Right.

13 Q You then went on to say that, in your
14 view, the termination suggested that Belmac had
15 successfully misappropriated the know-how and
16 technology of Belmac (sic); is that correct?

17 A Yes.

18 Q And is that the second of the twofold
19 reasons, or is the second reason yet to come?

20 A You know, I think, you know, when
21 you're in a situation like this, you know,

1 strongest possible objections to these people to
2 see whether or not there was any possibility that
3 Bentley/Belmac would -- you know, would -- you
4 know, would modify its course of conduct.

5 Q Do you know whether Mr. Murphy was
6 invited to attend the meeting and simply chose
7 not to?

8 A I don't know that.

9 Q Do you know whether anyone at Bentley
10 was invited to attend the meeting and simply
11 chose not to?

12 A I don't know that.

13 Q Focussing on your concern about what
14 Bentley was saying and not saying, what
15 manifestations of concern do you recall, sitting
16 here today, being made to anyone at Bentley on
17 that issue prior to February of 2002?

18 A Well, let me just tell you that, you
19 know, by now, we have looked at the November
20 14th -- I have seen this November 14th letter of
21 termination in Spanish. It wasn't translated,

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1 whether it be two reasons or three or four
2 subparts, you know, we were extraordinarily
3 unhappy with the way in which this relationship
4 had evolved, and that obviously was the principal
5 reason for DeBregeas and Leduc being at this
6 meeting.

7 It was very unusual to have them both at a
8 meeting, very unusual, you know, to have them
9 both on the same page at the same time. But the
10 reason was that, you know, they really felt that,
11 you know, even though they always in those days,
12 you know, would say that they were lovers --
13 they're Frenchmen; they were lovers, not
14 fighters, that they never brought lawsuits, that
15 this is something that they -- it really was
16 alien to them to bring a lawsuit like this, but
17 they were really aggrieved, aggrieved by the
18 situation.

19 And now, whether or not that's two parts or not,
20 and, you know, as I think through this, it was
21 clear that the meeting was to register our

1 but, you know, I could read dates. And Exhibit 6
2 and Exhibit 7, I don't know whether or not 7 was
3 handed to me at the same time, but Exhibit 6
4 spoke to it.

5 But also, there were press releases from Bentley.
6 I mean, you know, the termination is November
7 14th. On the same day, Bentley is announcing to
8 the public that it's filed four omeprazole
9 patents, and as I said before, whether it just be
10 me in my limited technical ability -- although I
11 was a physics and math major -- you know, I
12 thought that was impossible, and that had to be
13 the product of untoward activity.

14 That was announced. If I'm not mistaken, that
15 was November 14th as well. And we also are
16 beginning to learn that our customers, our
17 customers are now being approached and asked to
18 sign contracts. You know, the Ethypharm
19 customers are now being asked to sign contracts
20 with Belmac.

21 So you have a situation which, to me, was classic

22 (Pages 82 to 85)

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1 contract manufacturing, in which we owned the
 2 technology. That was acknowledged, in my
 3 opinion. We owned the processes. That was
 4 acknowledged. We had a piece of equipment there
 5 in Spain operating, and it was a situation where
 6 now we're being told that the contract
 7 manufacturer is terminating our relationship,
 8 proceeds to announce that it has its own patents,
 9 which we don't believe is possible, has started
 10 to contract with other customers, customers of
 11 ours prior to the termination of this agreement,
 12 and no mention is made of any continuing
 13 relationship.
 14 Now, that picture at the time, which led to the
 15 principal discussion at the meeting, was, you
 16 know, what are we going to do about this, and
 17 most of the discussion with Adolfo Herrera
 18 concerned the equipment.
 19 I mean, you know, obviously, you know, I probably
 20 made speeches that were a little harsher than
 21 that to those present about the violation of the

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1 SEC Act and the violation of American law and the
 2 fact that if you have read the Bentley press
 3 releases, if you have read the Bentley's filings
 4 with the SEC and the New York Stock Exchange, you
 5 know, you would think that Ethypharm was some bit
 6 player that possibly helped them paint the
 7 building. You know, this wasn't the case at all.
 8 We thought it was classic misrepresentation.
 9 But the focus of the meeting, the focus of the
 10 meeting really evolved to, you know, we wanted to
 11 basically shut them down at that stage, and we
 12 wanted the piece of equipment that was our glad
 13 back, and that was really where the discussion
 14 led.
 15 Q You have mentioned on a couple of
 16 occasions the word "glat," or is it "glad"?
 17 A Glad.
 18 Q Is that an acronym or was that the name
 19 of a machine, or...
 20 A It's the name of a machine. They call
 21 them a glat. Now.

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1 Q G-L-A-D?
 2 A Yes. But it's always been pronounced
 3 "glat," as opposed to "glad."
 4 Q Okay. You mentioned a November 14th,
 5 2001 press release.
 6 A Right. Something like that, yes.
 7 Q Do you recall when you first saw that
 8 document?
 9 A I suspect I would have saw that
 10 document -- would have seen that document in the
 11 same time frame that that letter would have been
 12 shown to me, looking at, well, "Look what they're
 13 doing," this sort of thing.
 14 Q Do you recall whether that was during
 15 2001 or was that in 2002, leading up to the
 16 February meeting?
 17 A I think -- I think we're talking about
 18 November 14th, 2001, and the press release would
 19 be November 14th, 2001, because it was virtually
 20 the same day, and then the contract with the
 21 Ethypharm customers, same day, and these would

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1 have been shown to me in, obviously, the time
 2 frame just immediate before this February, 2002
 3 meeting.
 4 Q And so my question is, do you
 5 specifically recall when you first saw the
 6 November 14th, 2001 press release?
 7 A I do not.
 8 Q Do you know whether the patent
 9 applications that were -- that had been filed
 10 for, in what country those applications had been
 11 filed?
 12 I guess a more artful way of putting that
 13 question, do you know where the patent
 14 applications were filed that were referenced in
 15 the November 14th, 2001 press release you just
 16 alluded to?
 17 A You know, I don't know whether those
 18 were filed in more countries or other countries
 19 than Spain. I do not recall.
 20 Q Do you recall them having been filed in
 21 Spain, at least?

23 (Pages 86 to 89)

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1 A Yes.

2 Q And do you know whether Bentley filed

3 them in Spain or Belmac filed them in Spain?

4 A I would assume that Belmac had filed

5 them in Spain.

6 Q And why would you make that assumption?

7 A Well, it would be natural for the

8 Spanish subsidiary to be filing, you know,

9 registrations or patent applications in the

10 country of domicile.

11 Q And just so the record is clear, did

12 you individually ever do an analysis of any of

13 those four patent applications that are

14 referenced in that press release?

15 A No.

16 Q Were you asked to attend this February,

17 2002 meeting?

18 A Yes.

19 Q By whom?

20 A By, I suspect, Mr. DeBregeas, but it

21 might have been -- it might have been any one of

1 A I was shown the Spanish version of 6,

2 and --

3 Q Were you provided an interpretation?

4 A No, I was given an oral interpretation.

5 Q I see. With respect to Exhibits 2 and

6 3, do you recall being shown either of either

7 those documents or a translation of those

8 documents?

9 A Truthfully, I don't recall, but I

10 suspect I was shown both, because, you know, she

11 had with her -- she is fairly organized.

12 Did you take her deposition?

13 Q I did not.

14 A Okay. She is a fairly organized woman,

15 and I suspect that she had -- usually she carried

16 this stuff around in an accordion file, and I

17 suspect she had all the materials with her.

18 Certainly they were on the table, because I know

19 exactly where we met, I know exactly where Adolfo

20 Herrera and Mr. Zuniga were sitting. I mean, I,

21 know, have been in that room a lot in St. Cloud.

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1 the three other Ethypharm people; I mean, Leduc,

2 DeBregeas or Roseline. I did a lot with Roseline

3 in those days, and I suspect she may well have

4 said "You need to be there."

5 Q Do you recall specifically any

6 documents that you reviewed prior to the meeting,

7 in preparation for the meeting?

8 A Well, I certainly recall looking at the

9 termination letter and I certainly recall

10 probably looking at the underlying contracts, or,

11 you know, as explained to me by Roseline, who is,

12 you know, multi-lingual.

13 Certainly -- certainly looked at, you know, some

14 of the latest filings of Bentley, latest press

15 releases.

16 Q And so when you say determination

17 letters, if you could just look briefly at

18 Exhibit 6 and Exhibit 7, do you specifically

19 recall reviewing either those documents or

20 translations of those documents in preparation

21 for the meeting?

1 Q Do you recall any other documents that

2 you reviewed in preparation for the meeting,

3 aside from the contracts and the letter of

4 termination?

5 A Other than looking at a lot of the

6 Bentley filings at the SEC.

7 Q Nothing else?

8 A No.

9 Q Did you do anything else to prepare for

10 the meeting?

11 MR. FINE: To the extent that that

12 doesn't call for privileged material.

13 A I don't recall.

14 BY MR. MINGOLLA:

15 Q Let me ask this way. I think this is a

16 yes-or-no question. I assume, but I'll ask you,

17 did you have any conversations with Mr. Leduc and

18 DeBregeas prior to the meeting?

19 A Yes.

20 Q And Ms. Joannesse?

21 A Yes.

24 (Pages 90 to 93)

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1 Q Any other individuals at Ethypharm that
2 you recall speaking with prior to the meeting?

3 A I might very well have spoken to
4 Domingo, who -- you know, who is an Ethypharm
5 employee.

6 Q Do you know what Domingo --is that his
7 first name?

8 A Yeah, Domingo is his first name. I
9 don't know what his last name is, but I believe
10 he would have -- he's probably in --

11 Q Is it Bernabe?

12 A Yeah, I think so.

13 Q Anybody else that you can think of?

14 A I might have spoken to Claude --
15 Claude -- I'm trying to think of Claude's last
16 name. Like Dubois or something like that.
17 Usually on issues like this, there was a fellow
18 named Pascal who does -- Pascal Oury, who does,
19 you know, a lot of the technical issues. I would
20 have possibly spoken to him.
21 I mean, I spoke to these people regularly; I

1 My recollection is that it was a meeting that
2 took place at one or two o'clock in the afternoon
3 and then went for, you know, with a couple of
4 very distinct breaks, went for two and a half or
5 three hours, with a lot of back-and-forth,
6 repetitive, redundant, whatever.

7 Q Did you keep a date planner or a
8 calendar back in February of 2002?

9 A I suspect I did.

10 Q Do you routinely include the times that
11 meetings start on those day planners?

12 A No. No. I mean, I -- honestly, no, I
13 don't. My Daytimers are about as sketchy as any
14 you have ever seen.

15 Q Are you aware of any documents that
16 would indicate when this meeting in St. Cloud in
17 February of 2002 began?

18 A Not that I have seen. All I can tell
19 is that, if forced to put -- you know, I go to
20 the electric chair if I'm right or wrong, knowing
21 how Mr. Leduc is never there in the morning, I

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1 mean, I knew them all at that stage, and -- you
2 know, and this was -- this was a significant
3 event, because it really did, you know, pertain
4 to a very large core asset of Ethypharm, an asset
5 that was quite valuable based on what we had by
6 then entered into with Astra, et cetera.

7 Q Did any of the discussions that you had
8 with anyone at Ethypharm prior to this meeting
9 include any participants who were not employees
10 of Ethypharm?

11 A Not that I recall.

12 Q Did you have any discussions with
13 Mr. De Basilio prior to this February, 2002
14 meeting? Adolfo de Basilio.

15 A No, I didn't.

16 Q Do you recall what time the meeting
17 began?

18 A My recollection -- you know, first of
19 all, they never met early. I mean, my
20 recollection, Mr. Leduc never came in the office
21 before 12:30 or so. Or on rare occasions.

1 would say it couldn't have started before noon.

2 Q So my question is, do you have a
3 specific recollection that this meeting began
4 after noon?

5 A I do. I do, because of the light in
6 that room. Where -- that's on the Seine, and the
7 light in the morning is really dark, and it was a
8 bright, bright day. And that's -- you know, and
9 I can see that, I can see the older gentleman
10 like he were here yesterday. Because he never
11 said anything, so he looked --

12 Q He's no longer here. Unfortunately, he
13 is deceased.

14 A Oh, he is. All right.
15 Well, I knew he was an older gentleman. No
16 disrespect.

17 Q You were right.
18 And you said the meeting, you believe, lasted two
19 and a half to three hours?

20 A I thought it was about that, yes.

21 Q Did the entirety of the meeting take

25 (Pages 94 to 97)

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1 place in a conference room in St. Cloud?
 2 A It did. The -- Adolfo and this fellow
 3 board member who is now deceased broke a couple
 4 times, broke a couple of times to make phone
 5 calls.
 6 And let me just tell you, the first phone call,
 7 the -- after giving them a fairly -- a fairly
 8 firm speech about the fact that -- and telling
 9 them directly, you know, that, "Look, I'm here as
 10 U.S. counsel; this is a very valuable asset of
 11 Ethypharm. You know, we feel that Belmac has
 12 misappropriated the asset. We feel that, you
 13 know, you have replicated our technology in these
 14 patents filings. We feel you're stealing our
 15 customers. We learned, you know, that you have
 16 got people under contract who used to be our
 17 customers. You know, we're outraged. And quite
 18 frankly, you know, I'm here as U.S. counsel
 19 because, quite frankly, we are seriously
 20 contemplating suing Bentley for this activity.
 21 And the other thing that, you know, we're really

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1 equipment, you know, could be physically removed
 2 and, you know, and they basically came back and
 3 said, "No, the equipment can't be removed; it's
 4 got to be August. We don't know whether it's
 5 going to be the first part of August." These are
 6 not big pieces of equipment, but they're big
 7 enough. And the representations to us at that
 8 date were absolutely firm, "not being used,
 9 interfering with our production," you know, "We
 10 cannot let you in to see it."
 11 Now, just as an aside, I understand that a year
 12 later, there was a judicial inspection of that
 13 plant. A year later. I was told this by
 14 Mr. DeBregeas. A year later a judge, apparently
 15 on court order, went in. The machine was not
 16 only still there, it was still being used and it
 17 was still producing, you know, material, you
 18 know, pursuant to the Ethypharm technology.
 19 And obviously that's the basis of the lawsuit,
 20 and that's what, obviously, the finders of fact
 21 eventually are going to have to deal with.

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1 concerned about is the fact that, you know, we
 2 need -- now with this termination, we need that
 3 glad returned."
 4 And whether or not, you know, we focused on that
 5 or not, the discussion really turned around
 6 Adolfo Herrera basically saying, "You can't have
 7 it. It's in the middle of our production. We're
 8 not using it. It's sitting in the middle of our
 9 production. You can't get it --" and this was
 10 February -- "You can't get it until August.
 11 We're running full out; we're around that space,
 12 and it's impossible."
 13 You know, which was a completely unacceptable
 14 answer. I mean, we had -- you know, we had --
 15 Roseline speaks Spanish; you know, there's
 16 animated discussions; there were side bars and
 17 all that. Basically, you know, unacceptable.
 18 And the first break, I remember it was a break --
 19 you know, that actually was at their request in
 20 which I thought they called Spain. And they
 21 called Spain about, you know, when that

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1 But the fact is that all I remember and all I can
 2 speak to was the absolute animation by Adolfo
 3 Herrera -- you know, the other fellow said
 4 nothing -- about the fact that, "not using it;
 5 haven't been using it for some time. In fact,
 6 it's in our way, it's in our way; we have to work
 7 around it, but we cannot let you in to move that
 8 equipment."
 9 And that's -- you know, and when I say a lot of
 10 this was redundant, probably because I speak too
 11 fast, probably because I don't pick up Spanish as
 12 well as I should, it was one of these things that
 13 went back and forth, and -- and at that time of
 14 the meeting, it was really Adolfo on one side and
 15 me on the other, with Roseline -- with DeBregeas
 16 coming in and out and Leduc coming in and out.
 17 Q Was the principal language spoken at
 18 this meeting English?
 19 A Yes. Yes.
 20 Q Except the occasional Spanish side bars
 21 that you just mentioned between Roseline and --

26 (Pages 98 to 101)

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1 A Well, no, between the board member --
2 the only discussion that he -- he partook of was
3 Adolfo with him. And I do remember him being
4 represented as a board member, you know, and
5 that's all I can say. I mean, I didn't
6 understand more than that.

7 Q Was it a round conference table?

8 A It's an odd-shaped conference table,
9 but essentially round, yes.

10 Q And you indicated that -- well, why
11 don't we take it this way. How did the meeting
12 begin? There were introductions, I assume?

13 A Yeah, we all introduced ourselves,
14 sure. Fairly friendly.

15 Q Had you ever met Mr. Herrera before?

16 A I don't recall. I might have. You
17 know, he might have been introduced to me before
18 in terms of being in Ethypharm for a reason or
19 not. I can't speak to that. I don't recall.

20 Q And did you introduce yourself as U.S.
21 counsel?

1 wasn't Adolfo, then it was probably
2 Mr. DeBregeas, who might have very well have led
3 the meeting off.

4 Q Do you remember a question being posed
5 at any point during the meeting, "Why isn't
6 Mr. Murphy here?"

7 A I don't recall that.

8 Q And so going back to how the meeting
9 began, did you make a statement at the beginning
10 of the meeting explaining your view of the
11 situation?

12 A You know, when I spoke along the lines
13 of what I earlier said about the fact that I
14 thought that this raised very serious question of
15 U.S. law, et cetera, et cetera, and -- and how I
16 thought that the situation presented itself
17 fairly clearly, that, you know, that Bentley had
18 been misrepresenting Ethypharm's role, that they
19 had misappropriated, you know, like their
20 property, processes, know-how, et cetera, that
21 was later in the meeting. I mean, I didn't jump

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1 A Yes. Oh, yeah, sure.

2 Q And did Mr. Herrera have a reaction
3 upon learning that you were a lawyer from the
4 United States?

5 A No worse than most.

6 Q What was that, if any?

7 A I don't recall it. Being sarcastic. I
8 mean, I just -- you know, "Hello." I mean, I
9 don't recall a reaction one way or the other.

10 Q Did he make a specific comment to the
11 effect of "I didn't know lawyers were going to be
12 here"?

13 A You know, I hear that a lot, but I
14 don't recall. He might well have. I just don't
15 recall it.

16 Q And then when the meeting actually
17 began --

18 A Yes.

19 Q -- who spoke first; do you remember?

20 A It might very well have been Adolfo.
21 It might very well have been Adolfo. But if it

1 into this. I mean, I was sort of listening to
2 the interchange between the parties in terms of,
3 you know, why Adolfo Herrera felt that Belmac had
4 to cancel the contract, what they were prepared
5 to do to, you know, supply product short-term to
6 Ethypharm, why -- you know, why they felt that
7 the broader relationship was no longer necessary.
8 And I think there was a fair amount of time spent
9 on that kind of sort of scene-setting.

10 Q Can we, before we move on, because I
11 would like to approach this in order, and this
12 might be the best way to do it, let's discuss the
13 scene-setting stage of the meeting.

14 A Right.

15 Q What did Mr. Herrera say in regard to
16 why he had to cancel the contract and his offer
17 to continue to manufacture?

18 A Well, you know, basically, as I
19 remember the pitch from Herrera was that, you
20 know, they now had their own technology, they now
21 had their own knowledge, they had their own

27 (Pages 102 to 105)

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1 customer base, that, quite frankly, they really
2 didn't have the capacity or the ability to
3 continue to work for us, because they were moving
4 in a completely different direction, and that
5 therefore, although they would accommodate
6 Ethypharm's customers for a transition period,
7 that they had to move on.

8 Q How long do you think Mr. Herrera's
9 statement or opening scene-setting lasted?

10 A Well, whenever we got to that scene,
11 which would have been early; I mean, you know,
12 these are polite people. Leduc and DeBregeas are
13 gentlemen; they're Frenchmen. You know, I -- you
14 know, I don't think that took five or ten
15 minutes.

16 Q Okay. And do you recall any questions
17 being posed to Mr. Herrera about his claim that
18 Belmac had its own technology and customer base?

19 A Well, sure. Roseline -- Roseline could
20 barely sit down. I mean, she was so incensed by
21 this, you know, she -- you know, she stormed

1 order that I referenced that reflected the fact
2 that a year later, when the judge was in pursuant
3 to court order, they were still using the
4 equipment. I mean, that -- whatever happened
5 there speaks for itself, but I have been told
6 that it was as I described it.

7 Q And those were -- the court order you
8 just alluded to pertained to Spanish legal
9 proceedings taking place in Spain; is that
10 correct?

11 A Sure. Absolutely.

12 Q Did Mr. Herrera at any point during the
13 meeting explain his understanding as to why they
14 had the right to do what he wanted to do?

15 A Well, I mean, you know, sure. I mean,
16 you know, he explained that they had created
17 their own technology, they had gotten their own
18 equipment, they weren't using our equipment, it
19 was in the way, they had too much activity. You
20 know, continuing to service Ethypharm the way
21 they had, you know, made no sense for them, you

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1 around, and she was just going nuts at this,
2 because it was -- in her way of thinking, it was
3 absolutely dishonest.

4 And so there were those kinds of normal tensions.
5 I mean, you know, she -- you know, she didn't
6 start screaming, you know, "That's not true," or
7 whatever, but she could barely contain herself,
8 she was that angry at that kind of
9 representation.

10 Q And what do you recall, if anything,
11 her saying in response to Mr. Herrera's
12 representations?

13 A Well, you know, "That's just simply not
14 true. That's just simply not the case."
15 I mean, she -- you know, one way or the other,
16 she made it clear that that was just not
17 something -- you know, that she agreed with at
18 all, I mean, and in fact, you know, I know for a
19 fact that subsequent to this meeting, she's the
20 one who went down to Spain to basically hire
21 counsel -- hire counsel who proceeded to get the

1 know, and words to that effect.

2 Q Do you recall any other specific
3 statements by Mr. Herrera at this meeting, other
4 than what you testified to already?

5 A Truthfully, I mean, you know, no.

6 Q Why don't we go through the list of
7 participants. You said Mr. Zuniga, Berenguer
8 Zuniga, was fairly silent, except for the
9 occasional --

10 A He talked with --

11 Q -- Spanish interaction with Mr.
12 Herrera?

13 A Yes. You know, I remember him saying
14 absolutely nothing during that meeting.
15 Publicly.

16 Q Okay. Because they had a couple of
17 breaks.

18 A Yes.

19 Q And do you remember -- you spoke about
20 Mrs. Joannesse's statement to the effect that
21 what Mr. Herrera said is simply not true.

28 (Pages 106 to 109)

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1 A Right.

2 Q Do you recall any other specific words
3 of hers at this meeting, or statements?

4 A Well, to me, yes. Sort of -- some
5 profane, some not.

6 Q Well, let me ask you this: Did she say
7 anything to you while the representatives of
8 Belmac were still in the room?

9 A Not -- not in their hearing.

10 Q Okay. Do you recall any other
11 statements made by Ms. Joannesse within their
12 earshot?

13 A Oh, sure. Because, I mean, you know,
14 the things I have said, that, you know, this was
15 Ethypharm's property, that the equipment -- you
16 know, that we had reason to believe the equipment
17 was still being used, that we couldn't accept
18 their representations, that it was simply untrue.
19 That we had reasons not only to believe that the
20 product coming out of there was based on
21 Ethypharm technology, that we had actually seen

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1 recall, and it's -- it's the Belmac product that
2 initially was supplied by Ethypharm and then
3 supplied by itself pursuant to, quote, "its
4 claimed technology."

5 Q And have you personally ever done an
6 investigation as to whether Belmazol relies upon
7 or --

8 MR. FINE: I'm going to object to this
9 as being well outside the scope of phase one.

10 MR. MINGOLLA: It's a yes-or-no
11 question.

12 A The answer to that would be no.

13 BY MR. MINGOLLA:

14 Q Okay. We have gone through Mr.
15 Herrera, Mr. Berenguer Zuniga and Ms. Joannesse.
16 Do you remember any specific statements by
17 Mr. Leduc at this February, 2002 meeting within
18 the presence of the Belmac representatives?

19 MR. FINE: Could you clarify what you
20 mean by presence?

21 A Not really.

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1 product that had been delivered to our former
2 customers which Belmac was claiming was their
3 product. And so, you know, that kind of sort of
4 continued back-and-forth. Because, you know,
5 she's the one who lived with this every day,
6 she's the one who was really upset by the fact
7 that there had been this, if you will, you know,
8 sort of misappropriation, flagrant
9 misappropriation, and so she, you know, was just
10 agitated.

11 And so was DeBregeas and so was Leduc, but they,
12 you know, they showed -- they show those kind of
13 emotions differently, and Leduc, as I said, was
14 in and out of the meeting, as I recall.

15 Q Have you ever heard of a product called
16 Belmazol?

17 A Yes.

18 Q And what's your understanding as to
19 what that product is?

20 A I think that's the omeprazole that was
21 being -- you know, Belmazol is omeprazole, as I

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1 BY MR. MINGOLLA:

2 Q Well, I assume that -- well, let me ask
3 you this: Did Mr. DeBregeas speak with you
4 outside the earshot of the Belmac attendees at
5 that meeting?

6 A Well, both Leduc and DeBregeas and
7 Joannesse all would speak to me. We had a --
8 when I say this was a large room, this room would
9 be about a third the size of the room we're in.
10 The table would be slightly bigger, and so people
11 were spread out, so there would be these kind of
12 conversations continuously between the parties on
13 both sides.

14 MR. MINGOLLA: So what I'm trying to
15 do, Jonathan, is carve those out, because I
16 assume you will assert the claim of privilege
17 there.

18 Q So within the earshot of the Belmac
19 attendees at this meeting --

20 MR. FINE: Objection. Why don't you
21 say overheard by?

29 (Pages 110 to 113)

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1 MR. MINGOLLA: Okay.
 2 Q Do you remember any statements made by
 3 Mr. DeBregeas to the Belmac attendees at the
 4 meeting?
 5 A Well, you know, I think that, in his
 6 own way, you know, more charming than I,
 7 obviously, he expressed the same kind of, you
 8 know, sort of outrage that this had happened;
 9 that, really, you know, this was never the
 10 intention of the parties; this was a relationship
 11 that was designed to be of mutual benefit, this
 12 was a relationship that he had talked to Murphy
 13 about and had tried to fix from time to time;
 14 that he could not believe that not only were you
 15 filing patents which he claimed in that meeting
 16 were based on technology -- and he is, you know,
 17 one of the owners -- Leduc said the same thing,
 18 that he felt that the patent technology was our
 19 technology -- but what he really objected to and
 20 objected to forcefully was the fact that
 21 customers of ours, customers that we had

1 good customers of Ethypharm were the ones that
 2 sometimes got the worst service, and they were
 3 the first people to be approached by Belmac in
 4 this supplanting period of time after November
 5 14th, obviously, or before November 14th, but
 6 certainly after the notice of November 14th,
 7 2001.
 8 Q Now, the five aspects of the case as
 9 you saw it back in February of 2002, let's start
 10 with the claim that Belmac had been stealing the
 11 technology.
 12 A Right.
 13 Q That was activity that had taken place
 14 in Spain?
 15 A That's where most of the activity was,
 16 yes.
 17 Q The filing of patents, was that
 18 activity that had taken place in Spain?
 19 A Sure.
 20 Q The stealing of know-how and the using
 21 of know-how, was that activity that had taken

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1 supplied, you know, for a long time, were now
 2 being, you know, essentially asked to sign up
 3 with Belmac for its own product.
 4 And so that what you had going on -- and this is
 5 something that DeBregeas addressed in the meeting
 6 -- was the fact that you had the overall picture
 7 of what we thought was the case, that Belmac --
 8 Bentley/Belmac was stealing the technology,
 9 filing new patent applications using the process
 10 and know-how, and still using Ethypharm's own
 11 machinery to manufacture omeprazole, which Belmac
 12 then was selling to the customer list that they
 13 had been supplying from the Ethypharm --
 14 Ethypharm customer list.
 15 In other words, they had basically taken the
 16 Ethypharm customers and were knocking them off
 17 one at a time.
 18 And the better customers, the ones that were the
 19 subject of all this tension we talked about
 20 earlier this morning, you know, the delivery
 21 tensions and all, the ones that were really the

1 place in Spain?
 2 A Well, you know, certainly with
 3 customers out of Spain as well. I mean, the
 4 customer base was -- you know, was multi-country.
 5 Q And the continued use of Ethypharm
 6 machinery, was that activity that was taking
 7 place in Spain?
 8 A The activity -- the machine that we're
 9 talking about was in the Belmac facility in
 10 Spain, yes.
 11 Q And with respect to the claimed
 12 takeover of customers that had been Ethypharm's
 13 customers?
 14 A Right.
 15 Q Was that activity being done by
 16 Mr. Herrera and his employees at Belmac in Spain?
 17 A Yes.
 18 Q Do you recall Mr. Herrera making any
 19 response to any of the statements of
 20 Mr. DeBregeas?
 21 A Oh, absolutely. I mean, he --

30 (Pages 114 to 117)

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1 Q What do you recall him saying in that
2 regard?
3 A Both in response to Mr. DeBregeas and
4 specifically in response to my -- my questions,
5 he reiterated forcefully and angrily that, you
6 know, "How dare you suggest we're still using
7 this equipment? How dare you suggest that we
8 have stolen your technology? How dare you
9 suggest that we have taken your customers?" And
10 if he said to me once in the course of that
11 interchange, he said ten times that "That
12 equipment is not only not being used, it's in the
13 middle of our production and it's blocking our
14 activities." And he was really animated about
15 that.
16 So obviously, if this later judge --
17 judge-sanctioned, court-sanctioned judicial
18 examination is accurate, Mr. Herrera was -- you
19 know, was not telling the truth.
20 Q And do you know for a fact whether that
21 court-sanctioned inspection did in fact determine

1 patents, he said some things about the
2 technology, but, you know, they weren't -- you
3 know, I mean, they don't sort of jump out at me.
4 Q Do you recall if there were any
5 documents present in the room during this
6 meeting?
7 A Oh, there were documents. I mean, you
8 know, I mean, Roseline had a whole binder of
9 documents there.
10 Q That's a good point, so let me be a bit
11 more precise.
12 Do you recall the parties handing out to each
13 other any specific documents at this meeting?
14 A Well, I'll -- you know, I don't recall,
15 but, I mean, I suspect that in the discussion of
16 the termination, you know, Herrera was pointing
17 out that they had every right to do this with a
18 four-month cancellation period, that they were
19 willing to work with us on transition, they were
20 willing to work with our customers.
21 But, you see, those were all sort of beside the

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1 that the machines were still being used?
2 A I was told that -- I was told directly
3 by a couple of people at Ethypharm that they had
4 actually seen the judge's report, which said that
5 the machinery was actively engaged. In about
6 February of 2003.
7 Q Okay. We have gone through
8 Mr. Herrera, Ms. Joannesse, Mr. Zuniga,
9 Mr. DeBregeas, yourself. Do you remember
10 anything -- any specific statements by Mr. Leduc
11 at the meeting?
12 A Gerard -- Gerard does not -- Gerard's
13 English is good, it's terrific, but he does not
14 feel it is, so he is less inclined in a meeting
15 like that to take a lead role.
16 I mean, his English is -- truthfully, his English
17 is terrific, but he doesn't see it that way, so
18 my recollection of Gerard in this meeting is much
19 like my recollection of Gerard in lots of
20 meetings, that he takes a sort of back seat to
21 Mr. DeBregeas. And he said some things about the

1 point, because if we really felt they were
2 stealing our customers, you know, why did we want
3 them -- why did we want them still working with
4 our customers, because that was just a precursor
5 to, you know, additional theft.
6 Q And my question is, do you specifically
7 recall, sitting here today, any specific
8 documents that were distributed at the meeting?
9 You references that there may have been the
10 termination letter, but I'm asking specifically
11 do you remember someone handing out a specific
12 document.
13 A I know that I had a copy of the
14 termination letter and I had a copy of the press
15 release dated November 14th, 2001, the one that I
16 think talked about four separate patents. But, I
17 mean, you know, I may be wrong.
18 MR. MINGOLLA: Can I have this marked
19 as the next exhibit?
20 (Meyer Deposition Exhibit No. 8 marked
21 for identification.)

31 (Pages 118 to 121)

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1 BY MR. FINE:

2 Q You have been handed now what's marked
3 as Exhibit 8. And if you wouldn't mind reading,
4 at least -- or at least skimming the document,
5 the last three pages of which are a translation.
6 And while you're doing so, I'll identify it for
7 the record.

8 Exhibit 8 is a three-page document bearing
9 production numbers BEL 000601 through 603.

10 A Yep.

11 BY MR. MINGOLLA:

12 Q Do you recognize this document?

13 A Sort of. You know, it's this sort of
14 the document that I think -- you know, I may be
15 wrong, but, you know, I think one of the things
16 that Herrera said during this meeting was the
17 fact, you know, that in response to my talking
18 about the fact that what Bentley was doing was,
19 in my judgment, completely illegal, violated U.S.
20 law -- was pointing to the fact that -- you know,
21 I think the document was in Spanish at the time,

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1 Ethypharm's role and importance and their
2 ownership rights, and that this was really a
3 serious issue.

4 I probably, you know, in somewhat more articulate
5 fashion, made a big speech, okay, about the fact
6 that this was outrageous and we were going to
7 have to look at what we were going to do, et
8 cetera, et cetera, at which time, somebody stuck
9 a document in my face and said, "You see here, we
10 have 'tribunes Español,' and that means we're
11 going to have to be in Spain," and my reaction at
12 the time -- my reaction at the time was, number
13 one, I don't speak Spanish, but number two, you
14 know, if I have -- you know, if I'm buying a
15 piece of property in Spain, you know, I'm buying,
16 you know, a guest house in Spain, you know,
17 obviously any dispute on that guest house or any
18 filing with the real property people down there
19 is going to have to be decided by Spanish courts,
20 and I sort of used these kinds of things as, you
21 know, as "Sure."

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1 and only Spanish; I don't think there was an
2 interpretation of this. But, you know, "Do you
3 see here, Mr. Meyer, that it's going to be --
4 have to be decided by courts in Spain," you know,
5 down here in the bottom of the document.

6 Q Do you remember Mr. Herrera asking that
7 question to you?

8 A You know, I sort remember him making a
9 big deal about the fact that, you know, this
10 wasn't a U.S. problem to me.

11 Q What did he say in that regard?

12 A I think it was sort of like, you know
13 -- you know, I mean, in response to the fact that
14 I thought that Bentley ran this operation,
15 that -- even though the, if you will, the
16 physical activities in large measure took place
17 in Spain, this was a subsidiary and an activity
18 controlled and driven by Bentley, that Bentley
19 was claiming credit for everything that was
20 happening in Belmac, and maybe properly under the
21 SEC law, but they were certainly misrepresenting

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1 I mean, you know, obviously, you know, on
2 registration issues and on the ability for Belmac
3 to do for Ethypharm what it was doing as a part
4 of the Bentley-Belmac relationship, you have got
5 to have -- you have got to have the Spanish
6 courts involved on the things that are sort of
7 typically and traditionally Spanish issues.
8 I'm not going to go in the -- I'm not going to
9 argue about a registration document or about
10 things that are really in the province of the
11 Spanish courts in the U.S. courts.
12 And so there was a disconnect. I mean, I don't
13 know -- I don't know -- you know, I don't know
14 what I said to Adolfo. I probably said, "Look, I
15 don't speak Spanish," but the fact is that I know
16 that in looking at this, after the meeting or
17 whatever document it was, I wasn't -- you know, I
18 mean, I wasn't -- I wasn't persuaded, put it that
19 way, that this wasn't something that really was a
20 dispute against Bentley, a New Hampshire company,
21 that was running and controlling and directing

32 (Pages 122 to 125)

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1 Belmac's activities.
 2 Q And if you turn to the bottom of the
 3 second page of Exhibit 8?
 4 A Second page. Okay.
 5 Q Do you see the parties listed to
 6 that --
 7 A Yes.
 8 Q -- are what? Are Ethypharm and --
 9 A Well, it would have to be Ethypharm
 10 Spain, because that signature is Adolfo's.
 11 Q De Basilio?
 12 A Yes.
 13 Q And the other party is Laboratorios
 14 Belmac?
 15 A Yes.
 16 Q And the date of the document is the
 17 30th of September, 1998?
 18 A Yes.
 19 Q Do you recall stating to Ms. Joannesse
 20 at this meeting that you had not seen the
 21 document that's been marked as Exhibit 8 before?

1 Belmac-registered, then maybe the customer is a
 2 wholesale customer. Maybe the customer is in
 3 another country.
 4 Obviously Ethypharm has got to give the dossier
 5 or the registration file to that customer. So
 6 this sort of stuff happens all the time.
 7 I mean, even though Ethypharm gives the
 8 underlying technology to Belmac, Belmac then does
 9 what's needed to register with the Spanish health
 10 authorities, creates a drug master file or drug
 11 dossier, which in turn then has to be given back
 12 to Ethypharm if a customer demands -- an
 13 Ethypharm customer demands some proof of
 14 production or certification.
 15 Now, I don't know whether this applies perfectly
 16 in this case, but these kinds of documents, there
 17 is probably lots of documents like this. I mean,
 18 I'm guessing.
 19 Q Were you involved -- I think I know the
 20 answer to this question, but I nevertheless must
 21 ask it. Were you involved in the drafting of

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1 A I don't recall it, but I might have.
 2 Because I don't -- you know, I don't think I did
 3 see it. I don't think I had seen it prior to
 4 that meeting.
 5 Q And if you look at the top of the
 6 last -- of the second-to-last page of the
 7 document, which is the English translation.
 8 A The second-to-last page. Okay.
 9 Q And do you see the sentence that says
 10 "Belmac has provided to Ethypharm the following
 11 documentation obtained from the registration of
 12 the medication Belmazol"? Do you see that?
 13 A Right.
 14 Q Were you aware as of the February, 2002
 15 meeting in St. Cloud that an agreement -- that
 16 this agreement had been entered into?
 17 A I was aware that agreements like this
 18 would have to be entered into, because you see
 19 the -- you know, if you have got -- if Ethypharm
 20 has a customer and the omeprazole being sold to
 21 that customer is Belmac -- Belmac-produced,

1 Exhibit 8?
 2 A No. No.
 3 Q At the meeting, do you recall,
 4 yourself, specifically threatening to bring a
 5 lawsuit against Belmac?
 6 A No. I threatened a lawsuit against
 7 Bentley.
 8 Q And did you threaten a lawsuit against
 9 Bentley in the United States?
 10 A Yes.
 11 Q And what did you say in that regard?
 12 A I said that -- I mean, you know,
 13 basically I think the question was, you know,
 14 "What do you think we ought to do, Larry," you
 15 know, from DeBregas in the course of the
 16 meeting. I mean, people in earshot. "What do
 17 you think we ought to do?" And I said, "I think
 18 we have to do what I have said, you know, is the
 19 only alternative to resolving this matter."
 20 And resolving this matter looked like it was
 21 going to be impossible, you know, because you

33 (Pages 126 to 129)

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1 had -- we believed that they were still using the
 2 equipment, but we knew that they were stealing
 3 our customers. And not only in Spain, but
 4 elsewhere. And we knew that because customers
 5 came to us with contracts that Belmac was
 6 proposing: "Look, you have been getting shitty
 7 service from Ethypharm, but we have been giving
 8 you that service; contract directly with us."
 9 Pardon my French.
 10 That's right, this is on the record, isn't it?
 11 But in any event, in any event, those kinds of
 12 things were going on, so we had every reason to
 13 believe that the kinds of sort of trade dispute
 14 had blossomed to a point that it wasn't going to
 15 be reconcilable.
 16 And I'm going to just tell you, I really -- I
 17 really was really troubled. I'm still troubled.
 18 I was troubled at the time by the fact that this
 19 appeared to be a real scam; you know, that you
 20 would come in as a contract manufacturer; you
 21 had -- you had -- you had exploited that

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1 Maybe. Where did I get it? I thought Murphy was
 2 coming.
 3 But the fact of the matter is that I had the
 4 impression that one time during this meeting,
 5 they actually recessed to talk to someone in New
 6 Hampshire. Was I right or wrong? I'm not going
 7 to ask them who they're calling or what they're
 8 doing.
 9 I know at one point they broke, and I know that
 10 they said -- they came back and were talking
 11 about whether or not they could get the machine
 12 freed up earlier, and that's when they came back
 13 saying, "No, it's got to be August." And I
 14 remember that specifically because August, you
 15 know, everything shuts down in August in Europe.
 16 But, no, I mean, you know, I'm a little less
 17 animated today than I was during the meeting.
 18 Trust me.
 19 MR. MINGOLLA: And I'll resume some
 20 question about this, but I know we have to change
 21 tapes, so...

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1 situation, replicated the technology, stolen the
 2 customers, and misrepresented over and over again
 3 the role of Ethypharm in this relationship to the
 4 public, to the shareholders, to the New York
 5 Stock Exchange.
 6 I mean, I really felt -- Joe, I'm being honest
 7 with you, I felt very passionate about this. I
 8 felt passionate about it because, you know, I
 9 come out of Justice, I come out of the trade
 10 commission. I really don't like to see this kind
 11 of thing. I'm really kind of a stickler for
 12 honesty. And the fact of the matter is that it
 13 struck me as an incredibly dishonest scam on the
 14 shareholders of Bentley and on the American
 15 public. And that's the kind of speech I gave.
 16 And, yeah, do I think we had a claim against
 17 Belmac? As a -- as a -- Belmac? Belmac was
 18 being driven and controlled by Bentley.
 19 I honestly thought that at one point during this
 20 meeting -- you said, you know, did I expect to
 21 see Murphy? Yes, I did. Was it misimpression?

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1 THE WITNESS: Okay, sure.
 2 THE VIDEOGRAPHER: This ends tape
 3 number one of the Meyer deposition. The time is
 4 11:44:55. Off the record.
 5 (Brief recess.)
 6 THE VIDEOGRAPHER: On the record with
 7 tape number two of the testimony of Lawrence
 8 Meyer in the matter of Ethypharm versus Bentley
 9 Pharmaceuticals. The date is August 4th, 2006.
 10 The time is 11:45:49.
 11 BY MR. MINGOLLA:
 12 Q Mr. Meyer, you mentioned a moment ago
 13 in your answer that you believed that the
 14 misappropriation -- I think you used the word
 15 "scam," or at least misappropriation -- was being
 16 driven and controlled by Bentley.
 17 A Yes.
 18 Q And I'm curious if, at this
 19 September -- at this February, 2002 meeting in
 20 St. Cloud, you made that point, and if so, how
 21 did you explain that point to Mr. Herrera and

34 (Pages 130 to 133)

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1 Mr. Zuniga.
 2 A Well, I said -- you know, without being
 3 histrionic about it, I said it exactly the way I
 4 said it. I said I thought that Bentley had been
 5 telling the American public, their investors, the
 6 New York Stock Exchange, that they were the
 7 principal owner of all of this underlying
 8 technology, as best evidenced by this November
 9 14th press release, coming on the eve of the
 10 cancellation of the contract notice, and that
 11 there was never a fair and proper discussion
 12 about the fact that they had acknowledged, and in
 13 fact, Ethypharm technology had been driving all
 14 of this activity, and there had, therefore, been
 15 an embellishment, you know, an extraordinary
 16 embellishment of the results of Bentley/Belmac to
 17 the investors, and that's obviously how they
 18 build value.
 19 And I -- and that's what led -- you know, to
 20 Herrera saying, you know, "You don't have any
 21 action in the United States," and then throwing

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1 couple of occasions, that there was at least one,
 2 if not more breaks, recesses taken during the
 3 course of the meeting.
 4 A Right.
 5 Q Do you remember, now that we have been
 6 speaking about this meeting for a little bit
 7 longer, do you have any better recollection as to
 8 how many breaks were taken during the course of
 9 this two and a half to three-hour meeting?
 10 A Well, I know two. I know two, and all
 11 I can tell you is what my impression was.
 12 My first -- my first impression of one break was
 13 that they had called Spain, asking specifically
 14 about the equipment issue and whether or not they
 15 could move more quickly, whether or not sometime
 16 before August would work. And the later break,
 17 it was the second break that I thought they were
 18 talking to New Hampshire. You know, obviously
 19 time differences are being what they are, and I
 20 don't what time this would have been, but in my
 21 way of thinking this was closer to five o'clock

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1 me the exhibit you pointed out to me. And I may
 2 have the wrong exhibit, but there was that kind
 3 of interchange. There was that kind of
 4 interchange.
 5 Q So my next question was going to be,
 6 what was Mr. Herrera's response, if any, to your
 7 statement, and aside from what you just
 8 testified, do you remember anything else
 9 Mr. Herrera saying in response to your threatened
 10 lawsuit in the U.S. against Bentley?
 11 A You know what I mean, lawyers are used
 12 to this. I mean, I got a pretty severe denial
 13 that they were doing anything wrong, and I also
 14 got a reiteration over and over again about the
 15 fact that "We're not using your equipment," and
 16 he kept focussing on "We're not using your
 17 equipment, and, by the way, this is a Spanish
 18 matter," and that's when -- that's when a
 19 document like the last exhibit was -- you know,
 20 was proffered.
 21 Q You mentioned today, I think on a

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1 in the afternoon now, or 4:30 or whatever, and
 2 they were calling New Hampshire, which would make
 3 sense based on a six-hour time difference.
 4 That's the best recollection I have.
 5 Q Do you know for a fact that, during
 6 this second break that you remember, that either
 7 Mr. Herrera or Mr. Zuniga or both did in fact
 8 call Mr. Murphy?
 9 A I don't know that. I don't know that.
 10 I don't know that.
 11 Q Do you recall whether any of the
 12 participants of the meeting ended up going out
 13 for -- I guess it would have been either a late
 14 lunch or an early dinner together after this
 15 meeting?
 16 A I have absolutely no recollection of
 17 what I did after that meeting. Truthfully.
 18 Q Okay. So what was the end result of
 19 the meeting? I mean, were there any action items
 20 agreed to, or what?
 21 A I think that the action items agreed to

35 (Pages 134 to 137)

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1 during the meeting were that, you know, the
 2 parties, you know, would see if they could, you
 3 know, somehow, you know, work, transition with
 4 their customers, and I think that was just
 5 face-saving. I know that, you know, as I
 6 testified earlier, Joe -- Roseline Joannesse went
 7 down and hired Spanish counsel, went down the
 8 path of seeking a court-ordered inspection of the
 9 operations. I think we analyzed product that we
 10 were seeing in those days.
 11 And remember, this is an extraordinarily valuable
 12 asset, because we do have a drug development deal
 13 with Astra at that point, we have obligations
 14 relative to our technology under that agreement,
 15 we have obligations to make sure, you know, we're
 16 not selling in certain countries, et cetera, et
 17 cetera, and so the -- and so the issues were such
 18 that, you know, we needed to proceed.
 19 You know, I recommended that we look seriously at
 20 a lawsuit here, depending on how the facts
 21 developed.

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1 Remember, now we're in 2002, and we really don't
 2 have, if you will, anything other than the
 3 dispute as sort of framed out at that stage.
 4 MR. FINE: And by the way, I would
 5 recommend that we don't go into the legal advice
 6 that you gave at the time.
 7 THE WITNESS: All right.
 8 BY MR. MINGOLLA:
 9 Q The purpose of my question was to focus
 10 more on action items agreed to by the Belmac
 11 participants and the Ethypharm participants. For
 12 example, did Mr. Herrera say, "Here's what I'm
 13 going to do in the next several weeks; thank you
 14 for this meeting," and similarly, did anyone from
 15 Ethypharm say "Here's what we're going to do"?
 16 Do you remember any such agreement being --
 17 A All I remember is they were going to
 18 work together on transition. I mean, they were
 19 going to -- I think there was, you know, some
 20 statement made about the fact that they would see
 21 what they could do about getting any of the

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1 equipment to us sooner.
 2 You know, that didn't seem credible to me. But
 3 they were also going to work with -- these were
 4 public statements in the meeting. They were
 5 going to work on -- on some of the customer
 6 issues, because the customer issues were still a
 7 part of this discussion, one reason it was so
 8 long. Customers were not getting product,
 9 Ethypharm customers were behind in their
 10 shipments. You know, we knew that some customers
 11 were being pirated, et cetera, et cetera. So
 12 that kind of back and forth.
 13 You know, we -- you know, people shook hands; you
 14 know, people left the meeting without throwing
 15 rocks, but, I mean, it was obviously a taut
 16 situation.
 17 Q And when you say transition issues were
 18 discussed, are you talking about the -- what are
 19 you talking about?
 20 A Just what I said. You know, the fact
 21 is that, you know, in this notice, they were

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1 willing to work with Ethypharm in terms of
 2 supplying their customers, so I had the distinct
 3 impression that no matter how bad it was, how we
 4 felt about it, there was still an effort to meet
 5 the customers' needs, Ethypharm customer needs in
 6 this interim period. And I don't know how long
 7 it lasted. It might have lasted, you know, well
 8 into a year or so that some Ethypharm customers
 9 were still being supplied, because, after all,
 10 they were still producing -- at least as we had
 11 been led to believe, they were still producing
 12 with the same machinery.
 13 Q Do you remember either Mr. Herrera or
 14 Mr. Zuniga indicating that they would get in
 15 touch with Mr. Murphy or anyone else at Bentley
 16 and report back to Ethypharm?
 17 A Well, see, my impression -- you know,
 18 obviously my impression was that they were --
 19 they were checking with New Hampshire sometime
 20 during the meeting, and my impression was that
 21 the final decision on anything was being made by

36 (Pages 138 to 141)

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1 New Hampshire.
2 Now, do I recall Mr. Herrera saying he would have
3 to get Mr. Murphy's approval? No, I don't. No,
4 I don't.

5 Q After the meeting ended, did you --
6 strike that.

7 At any point during the meeting, was there a
8 discussion about a possible new contract being
9 entered into between Ethypharm and Belmac?

10 A I think there was a discussion of
11 whether or not they might put a contract together
12 for transition. I mean, you know. But I -- but
13 I don't -- I didn't play a role in that. I know
14 there was some discussion of how we're going to
15 deal with this, you know, "Tell us what we need,"
16 et cetera, you know, customers to be supplied, et
17 cetera.

18 Because whatever was really being said in the
19 meeting, you know, being sort of like acting
20 nice, in terms of working this out, was really
21 not, you know, a reflection of the meeting. The

1 A I do now.

2 Q I'm turning to the English
3 translation --

4 A Right.

5 Q -- the second page of the document.
6 And in the -- you see P.S.?

7 A Yes, sir.

8 Q It says, "Since the manufacturing
9 contract of omeprazole microgranules of March 23,
10 2000 will be cancelled on March 23, 2002." Do
11 you see that reference?

12 A Um-hmm.

13 Q Do you recall whether Belmac continued
14 to manufacture omeprazole for Ethypharm after
15 March 23rd, 2002?

16 A No, but based on the meeting, I'm
17 assuming they did. I'm assuming they did. I do
18 not know the answer to that question, but based
19 on this meeting, I'm assuming they did.

20 Q After the February, 2002 meeting ended,
21 what role, if any, did you have with respect to

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1 meeting was a -- was a hostile meeting.

2 Q Do you recall anyone at the meeting
3 broaching the issue of a new agreement that would
4 solve all of the outstanding issues between the
5 parties?

6 A I don't think -- I mean, put it this
7 way, I don't recall that, because we didn't think
8 that was possible. We thought that there had
9 been too significant a breach in terms of what
10 Belmac had done. But obviously Ethypharm really
11 had -- you know, every drug manufacturer has an
12 obligation to get their clients supplied, and
13 there were clients out there who relied on this
14 source of omeprazole. You know, even though
15 there may have been alternative, these were
16 Ethypharm customers that Ethypharm was trying to
17 get supplied.

18 Q Do you have Exhibit 6 in front of you,
19 which is the letter of cancellation of the
20 manufacturing contract between Belmac and
21 Ethypharm?

1 seeking the return of any machinery of
2 Ethypharm's that was in Belmac's laboratory?

3 A I would periodically hear from the
4 didn't and they would tell me what they were
5 doing and I knew what Roseline was up to in terms
6 of retention of Spanish counsel, and we talked
7 about, you know, obviously evaluating the
8 situation as the facts developed relative to our
9 promise, assurance that we would have to seek
10 redress against Belmac.

11 MR. MINGOLLA: I would like to show you
12 one more document, an almost illegible one at
13 that, but let's have that marked as the next
14 exhibit, please.

15 THE WITNESS: We can go back to 5 at
16 this point. Or we can go to 11.

17 (Meyer Deposition Exhibit No. 9 marked
18 for identification.)

19 MR. FINE: Has this document been
20 produced before?

21 MR. MINGOLLA: It was part of a court

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1 filing. I don't know if it's been -- another
2 copy has been produced, but it was included among
3 the exhibits to the motion to dismiss.

4 MR. FINE: In this action.

5 MR. MINGOLLA: Yes.

6 BY MR. MINGOLLA:

7 Q If you could just take a moment and
8 review what has been marked as Exhibit 9.
9 And just for the record, it doesn't have a
10 production number, except for the bottom
11 right-hand corner does indicate A-41, and it's a
12 document on Belmac letterhead dated September
13 9th, 2003.

14 A Right.

15 Q My question is, have you ever seen this
16 document before?

17 A No.

18 Q Do you know whether -- do you know
19 whether Ethypharm eventually retrieved its
20 machinery from Belmac's facilities?

21 A Well, you know, I had -- I have always

1 THE VIDEOGRAPHER: The time is

2 11:58:42. Off the record.

3 (Brief recess.)

4 THE VIDEOGRAPHER: On the record. The
5 time is 12:01:03. I'm sorry, 12:08:03.

6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

7 BY MR. FINE:

8 Q Hi. Good afternoon, Mr. Meyer. My
9 name, as you already know, is Jonathan Fine, and
10 I represent Ethypharm in this matter.

11 I would like to have the reporter mark as an
12 exhibit a document -- and I'm sorry, I don't have
13 a copy to give to opposing counsel, but I will
14 show it to him first.

15 (Meyer Deposition Exhibit No. 10 marked
16 for identification.)

17 BY MR. FINE:

18 Q If you would please review that
19 document for a moment.

20 A I remember this document.

21 Q Okay. And my first question was, have

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1 assumed they did. I have always assumed that it
2 was after February of 2003, which was a year
3 after our meeting, and which was the apparent
4 judicial inspection. And if I'm reading this
5 document correctly, it looks to me like this is
6 what's happening on September 9th of 2003.

7 Q Yes, but my question is, you had no
8 specific involvement in the attempt to get the
9 machinery out of Belmac's facilities?

10 A No, I didn't.

11 Q And you have never seen this document,
12 Exhibit 9, before?

13 A I don't recall ever seeing it. I don't
14 recall ever seeing it.

15 MR. MINGOLLA: At this point I have no
16 other questions. Thank you very much, Mr. Meyer.

17 MR. FINE: I will have a few questions,
18 and I would like a few minutes to prepare them.

19 MR. MINGOLLA: Let's go off the record.

20 THE WITNESS: Wait a minute. Being
21 sabotaged by my own guys over here.

1 you seen this document before.

2 A Yes, I have.

3 Q And you had testified earlier today
4 that you recalled seeing a letter from
5 Mr. Murphy, from Bentley, where Mr. Murphy
6 indicated that he had taken control of
7 Laboratorios Belmac or that Bentley had taken
8 control of Laboratorios Belmac. Is this the
9 letter to which you were referring?

10 A Yes, it is, because the -- I mean, not
11 because of what he says in this letter about the
12 fact that he is assuming control of Belmac, it's
13 the fact that he's talking about the fact that
14 they had not been paid for a year and that we had
15 been very generous, you know, "Do you know
16 anybody else who would have carried you for a
17 year" type thing, and these were the tensions I
18 talked about.

19 But this is clearly the letter that I saw where
20 Murphy was essentially saying that he had taken
21 control of Belmac.

38 (Pages 146 to 149)

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1 Q And I would like you to focus on that
2 statement for a moment, if you would. Are you
3 aware of any document in which Mr. Murphy
4 indicated that he had relinquished control of
5 Belmac?

6 A No.

7 Q Are you aware of any document in which
8 Mr. Murphy indicated that Bentley had
9 relinquished control of Belmac?

10 A No.

11 Q Are you aware of any statement that
12 Mr. Murphy had made indicating that either he or
13 Bentley had relinquished control of Belmac?

14 A No.

15 MR. FINE: I would like to have the
16 court reporter mark another exhibit, and I
17 apologize again, I don't have a copy of this, but
18 I will show it to opposing counsel first.

19 (Meyer Deposition Exhibit No. 11 marked
20 for identification.)

21 (Discussion off the record.)

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1 Mr. Herrera and Mr. Zuniga -- were speaking with
2 New Hampshire; is that correct?

3 A Yes.

4 Q Okay. And Mr. Mingolla had asked you
5 whether you had ever asked whether or not they
6 would be checking with New Hampshire after this
7 meeting to run whatever discussions at the
8 meeting -- whatever discussions had occurred at
9 the meeting past people in New Hampshire at
10 Bentley Pharmaceuticals; is that correct?

11 A Yes.

12 Q Okay. Did either Mr. Herrera or
13 Mr. Zuniga state at the meeting that they would
14 not be speaking with people in New Hampshire
15 about the contents of that meeting?

16 A No.

17 Q Did either Mr. Herrera or Mr. Zuniga
18 indicate in any way that they would not be
19 seeking the approval or ratification of any
20 decisions or positions they had taken at that
21 meeting --

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1 THE WITNESS: Yep, I have seen this.

2 BY MR. FINE:

3 Q And my next question is, does this
4 refresh your recollection at all about the events
5 that you described in 2002, specifically, your
6 meeting with Ms. Joannesse, Mr. Leduc,
7 Mr. DeBregeas, and Mr. Herrera and Mr. Zuniga?

8 A Yes.

9 Q And you had testified earlier today
10 that you had seen a press release by Bentley to
11 the effect that it, through Laboratorios Belmac,
12 had applied for a number of Spanish patents on
13 omeprazole. Is this the document to which you
14 were referring?

15 A Yes.

16 Q Returning for a moment to the meeting
17 in February of 2002 at which Mr. Leduc,
18 Mr. DeBregeas, yourself, Ms. Joannesse,
19 Mr. Herrera and Mr. Zuniga were present, you had
20 testified earlier today that you had the
21 impression that they -- and by "they," I mean

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1 MR. MINGOLLA: Objection.

2 Q -- through Bentley in New Hampshire?

3 A Well, the answer is no. And as I
4 indicated, I mean, Mr. Zuniga, you know, said
5 nothing. You know, I mean, just so we
6 understand, my testimony was the only person who
7 spoke on that side was Herrera, and of course he
8 said nothing about that.

9 Let me just say something about this. And it's
10 always helpful to have the documents.

11 The reason why I was so outraged, I, personally,
12 was so outraged, is because I had been the lawyer
13 who not only prepared, but drafted the Astra
14 agreement, and with, obviously, Astra's counsel
15 on the other side, I had also done the Venice
16 agreement with Ethypharm. And when I read in
17 here that Murphy was saying that "These patents
18 describe new technological --" dah, dah, dah, and
19 these advancements --" you know, "--
20 advancements orally administered, you know, are
21 going to go beyond its patented technology in

39 (Pages 150 to 153)

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1 delivery activities."
 2 And what do they then say? "Bentley
 3 Pharmaceutical is a drug delivery company
 4 focussing upon improving the absorption of wid
 5 and peptides through proprietary drug delivery
 6 technology which it intends to commercialize in
 7 the U.S. market by licensing to other
 8 pharmaceutical companies."
 9 And just so the record is clear, what I was
 10 really, hopefully, in Herrera's face about was
 11 the fact that Bentley was going to take these
 12 Belmar -- Belmac-claimed activities and try to
 13 sell them, if you were, in the same market that
 14 we were actually already present on behalf of
 15 Ethypharm and in transactions that we were
 16 actually trying to close for Ethypharm.
 17 And so, you know, when I look at this, it just
 18 sort of brings it all back. And I saw this, you
 19 know, before the meeting of February, and there
 20 was what was really giving me, at the time, a far
 21 more articulate and far more passionate speech

1 BY MR. MINGOLLA:
 2 Q Do you recall who sent you that letter?
 3 A DeBregeas.
 4 Q Did you have an understanding back in
 5 1997 as to what Mr. Murphy meant when he said --
 6 can I just see it -- when he said "... since I
 7 assumed control of Belmac"?
 8 A My sense was that he was running
 9 Belmac.
 10 Q And at that point, did you know whether
 11 Bentley -- strike that.
 12 At that point, did you know whether Belmac was a
 13 wholly-owned subsidiary of Bentley
 14 Pharmaceuticals?
 15 A At that point, I doubt that I did.
 16 Q At that point, did you know whether
 17 Mr. Murphy, in addition to being an officer of
 18 Bentley Pharmaceuticals, also had a role or title
 19 in Laboratorios Belmac?
 20 A I didn't know specifically, no.
 21 MR. MINGOLLA: No further questions.

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1 about what I thought was going on here that was
 2 actionable under U.S. law.
 3 MR. FINE: Thank you, Mr. Meyer.
 4 MR. MINGOLLA: I have a couple of
 5 follow-up questions for you.
 6 FURTHER EXAMINATION BY COUNSEL FOR THE DEFENDANT
 7 BY MR. MINGOLLA:
 8 Q With respect to Exhibit 10, the January
 9 28th, 1997 letter.
 10 A Yes.
 11 Q What did you do upon seeing this
 12 letter, if anything?
 13 MR. FINE: To the extent that your
 14 responses don't go into matters that are
 15 privileged.
 16 A This was -- this was really not
 17 something that called for -- you know, it was
 18 basically a for-information type thing in terms
 19 of what they were doing with omeprazole. You
 20 know, I discussed it with my client and discussed
 21 the situation, but, you know, didn't do anything.

1 THE WITNESS: Witness excused?
 2 MR. FINE: Yes.
 3 MR. MINGOLLA: Let's go off the record.
 4 MR. FINE: I'm sorry, there is one more
 5 thing that I need to get on the record. But
 6 let's go off for a moment.
 7 THE WITNESS: Are you having signature
 8 waived? What are you doing in this?
 9 MR. MINGOLLA: We haven't discussed it.
 10 Actually, can we go off the record for a moment?
 11 THE VIDEOGRAPHER: The time is
 12 12:17:03. Off the record.
 13 (Discussion off the record.)
 14 THE VIDEOGRAPHER: On the record. The
 15 time is 12:18:27.
 16 MR. FINE: Thank you. I just wanted to
 17 indicate on the record that Bentley had agreed to
 18 provide Ethypharm's counsel with the Bates
 19 numbers of some specific documents relating to
 20 the allocation of time spent by certain Bentley
 21 officers in relation to management fee

40 (Pages 154 to 157)

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1 arrangements with Laboratorios Belmac, and that
 2 Ethypharm had not yet received that.
 3 Also to indicate that in response to Ethypharm's
 4 supplemental phase one requests, Bentley has
 5 produced, after the close of deposition, except
 6 for this deposition and the deposition of one
 7 other witness, Mr. Fitzgibbons, who has not
 8 indicated that he was aware of any of those
 9 issues, approximately 30,000 pages of documents
 10 and indicated that only a few of those related to
 11 phase one and the majority to phase two, but that
 12 those documents are undifferentiated by phase.
 13 MR. MINGOLLA: And I will just take
 14 this opportunity briefly to register my dismay at
 15 yet another attempt to clutter a deposition
 16 transcript with a discovery-related claim, not
 17 all of which we agree with. We will deal with
 18 those in due course.
 19 With respect to the Bates number issue, we are
 20 continuing to pursue those documents and even to
 21 locate where they are, and if we locate them, we

1 ACKNOWLEDGMENT OF DEPONENT
 2 I, Lawrence G. Meyer, do hereby
 3 acknowledge that I have read and examined the
 4 foregoing pages of testimony, and the same is a
 5 true, correct and complete transcription of the
 6 testimony given by me, and any changes and/or
 7 corrections, if any, appear in the attached
 8 errata sheet signed by me.
 9

10 _____
 11 Date Name

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1 will in turn produce them as we agreed.
 2 But at this point, moreover, there is no
 3 prohibition, as far as I am aware, from Bentley
 4 from producing phase two documents as well, but
 5 at this point, that's all I would say on that
 6 matter. We will address the issue, to the extent
 7 any issues remain, in due course outside of the
 8 deposition context.
 9 Thank you.
 10 THE VIDEOGRAPHER: This ends tape
 11 number two and concludes the testimony of
 12 Lawrence Meyer in the matter of Ethypharm versus
 13 Bentley Pharmaceuticals.
 14 The date is August 4th, 2006. The time is
 15 12:20:31. Off the record.
 16 (Signature not waived.)
 17 (At 12:30 p.m., the deposition was concluded.)
 18 - - -
 19
 20
 21

1 ESQUIRE DEPOSITION SERVICES
 2 1020 19TH STREET, N.W.
 3 SUITE 620
 4 WASHINGTON, D.C. 20036
 5 (202) 429-0014
 6 ERRATA SHEET
 7 Case Name: Ethypharm vs. Bentley Pharmaceuticals
 8 Witness Name: Lawrence G. Meyer
 9 Deposition Date: August 4, 2006
 10 Job No.: 175561

11 Reason for
 12 Page No. Line No. Correction Correction
 13
 14
 15
 16
 17
 18
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 20

21 Signature Date

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CERTIFICATE OF NOTARY PUBLIC

I, George W. Tudor, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken stenographically by me and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

Date George W. Tudor
My Commission expires Notary Public in and for
January 1, 2007 the District of Columbia

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